

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

GABRIELLE GARCIA, :  
: Petitioner :  
: VS. :  
: NO. 5:02-CR-60 (WDO)  
UNITED STATES OF AMERICA, :  
: Respondent : **O R D E R**

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On April 6, 2007, petitioner **GABRIELLE GARCIA** filed a notice of appeal of the denial of his motion for reconsideration for a free copy of his criminal record. The Eleventh Circuit Court of Appeals dismissed petitioner's appeal on or about May 4, 2007, for failure to pay the \$450 docketing and \$5 filing fees (Tab # 64). This Court has subsequently learned petitioner has filed a motion to reinstate his appeal with the Eleventh Circuit, which the clerk of the Eleventh Circuit has "clerically granted" (Tab # 66). Petitioner has now filed a motion to proceed IFP in this Court. It is hereby certified, pursuant to 28 U.S.C. § 1915(a)(3) and FRAP Rule 24(a)(3)(A), that petitioner's appeal is not taken in good faith, and the request for leave to appeal IFP is **DENIED**. As the Court noted in its previous order, an indigent prisoner is not entitled to have the government pay the fees for a copy of his criminal transcript/records until he actually files his 28 U.S.C. § 2255 application. *Skinner v. United States*, 434 F.2d 1036 (5th Cir. 1970) (construing 28 U.S.C. § 753(f)).

If plaintiff wishes to proceed with his appeal, he must pay the entire \$455.00 appellate filing fee. Plaintiff must either pay the \$455.00 immediately or pay using the partial payment plan described under 28 U.S.C. § 1915(b).

**SO ORDERED**, this 5<sup>th</sup> day of June, 2007.

S/  
WILBUR D. OWENS, JR.  
UNITED STATES DISTRICT JUDGE

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